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MUNICIPAL CORPORATIONS—ASSAULT BY POLICEMAN.—The wrongful arrest of a person who has committed no offense and a brutal assault upon him, though made by a policeman who is notoriously incompetent and who has been retained by the city authorities with knowledge of his incompetency, was held, in *McIlhenny v. Wilmington* (N. C.), 50 L. R. A. 470, insufficient to render the city liable either for the tort of the policeman or for the negligence of the city officials, where there is no statute imposing such liability.

The ruling in *Shields v. Durham* (N. C.), 24 S. E. 794, appears opposed to the principal case, and was criticized in 3 Va. Law Reg. 534. But as appears from the later case, the principle applied in *Shields v. Durham* is statutory in North Carolina.

BANKRUPTCY—EFFECT OF DISCHARGE ON JUDGMENT FOR ALIMONY.—In July, 1898, plaintiff obtained a decree against her husband for divorce and alimony. In November, 1898, defendant filed a petition in bankruptcy, and in February, 1900, was adjudged a bankrupt, obtaining his discharge in June, 1900. The claim for alimony asserted by the plaintiff included arrears due at the date of the filing of the petition in bankruptcy, and other arrears since accrued. *Held*, That the claim for alimony, whether accrued before or after the date of the adjudication, is discharged by the proceedings in bankruptcy. *Fite v. Fite* (Ky.), 61 S. W. 26.

A different view as to arrears of alimony accrued subsequent to the adjudication, is maintained by some authorities, and the argument in support of that view is strongly presented in an article by W. G. Mathews, of the Charleston (W. Va.) bar, in 5 Va. Law Reg. 365.

PEDDLERS—LICENSE TAX—INTERSTATE COMMERCE.—Employees of a non-resident manufacturer of buggies travelled through the State peddling the vehicles—selling and delivering at the same time, and without having paid the State license tax exacted of peddlers. On indictment of one of such salesmen for peddling without license, it was *Held*, That such sales constituted interstate commerce, and defendant was not liable to such license tax. *Kirkpatrick v. State* (Tex. Crim. App.), 60 S. W. 762.

The court relies upon the "drummer" and similar cases (*Asher v. Texas*, 128 U. S. 129), and overlooks the distinction between a drummer, or solicitor, and a peddler. The distinction is pointed out in *Emert v. Missouri*, 156 U. S. 296, where it is distinctly held, in an elaborate opinion by Mr. Justice Gray, that a license tax may be exacted of a peddler, though he be engaged solely in selling goods on behalf of a non-resident manufacturer.

STATUTE OF LIMITATIONS—WRITTEN CONTRACTS—ACTION BY DRAWEE AGAINST DRAWER OF BILL.—In 1893, plaintiffs paid a draft drawn on them by defendants, and in 1897 sued to recover the amount thus advanced. The statutory limitation on written contracts was four years, and on oral contracts two years. *Held*, That the action was not on the draft itself but on the implied promise of the drawer to repay the sum advanced, and hence barred in two years—*Dwight v. Mathews* (Tex.), 60 S. W. 805.

The decision is clearly right. The acceptor is the primary debtor, and payment

by him extinguishes the instrument, and no action can thereafter be maintained on it. Where the drawer has no funds in the drawee's hands, an action by the latter for the amount advanced to take up the paper, is not on the paper itself, but on an implied assumpsit. 2 Daniel Neg. Inst. 1236. It is otherwise where the action is by any other party to the paper than the primary debtor—the drawer, payee or indorsee, for example, against the maker or acceptor. In the latter case, the action is on the paper itself, and hence on a written contract. *Connor v. Becker*, (Neb.), 76 N. W. 891; *Martin v. Lewis*, 30 Gratt. 672, 682. See *Tate v. Winfree*, and note, *ante* p. 837.

DEATH OF EXECUTOR—SECURITY PAYABLE TO EXECUTOR—ACTION BY ADMINISTRATOR DE BONIS NON.—A, as executor of B, held a bond secured by mortgage payable to himself as executor. Upon A's death, C, as administrator *de bonis non* of B, brought suit to foreclose the mortgage. On demurrer, *Held*, that the administrator *de bonis non* might maintain the suit. *Parker v. Fay* (N. J.), 47 Atl. 499.

The courts are not thoroughly agreed as to who is the proper plaintiff in a suit on a security payable to an executor as such, after the latter's death—the question being whether it passes to the representative of the deceased executor, or to the administrator *de bonis non* of the original testator. It seems to be generally conceded that so long as the executor is himself alive, he may sue on a security payable to himself as executor, either in his individual or in his representative character. *Bull v. Palmer*, 2 Lev. 165; *Myers v. Weger*, 62 N. J. Law, 432, 42 Atl. 280; *Lawson v. Lawson*, 16 Gratt. 230, 80 Am. Dec. 702, and note; *Sanders v. Blain*, 6 J. J. Marshall, 446, 22 Am. Dec. 86; especially as in such case the description as “executor,” “personal representative,” etc., may probably be regarded as *descriptio personae*, and treated as surplusage. See *Clarkson v. Booth*, 17 Gratt. 490, 496, 498; *Belvin v. French*, 84 Va. 81; 3 Rob. Practice (New) 518.

The rule seems to be settled in England that upon the death of the executor, suit may be maintained on a security payable to him as such, either by the representative of the executor, or by the administrator *de bonis non*. *Catherwood v. Chabaud*, 1 Barn. & C. 150. And this appears to be the prevailing view in America. *Williams v. Collins*, 1 B. Mon. 58; *Newhall v. Turney*, 14 Ill. 338; *Sheets v. Pabody*, 6 Blackf. 120, 38 Am. Dec. 132, and note; *Sullivan v. Holker*, 15 Mass. 374; 1 Williams Ex'rs, 631.

NOMINAL PARTNER—LIABILITY FOR TORT OF FIRM'S EMPLOYEE.—A was a nominal member only of a firm composed of B and C. An employee of the firm, while driving its wagon, negligently collided with plaintiff's team, causing injury to the latter. In an action against A, B and C for damages, the lower court held that A was liable as well as B and C. On appeal it was *Held*, that A being a nominal partner only, was not liable for the torts of the firm's employee—*Brudi v. Luhrman* (Ind. App.), 59 N. E. 409. No authority is cited.

The decision is right. The ground upon which a nominal partner is held for the liabilities of the firm, is that of estoppel. Having permitted himself to be held out as a partner, he is estopped to deny the fact, as to any person who has been misled by his conduct and thereby suffered injury, but not otherwise. That the liability of a nominal partner rests on the doctrine of equitable estoppel, and that